

S/N 09/995,121

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Parham Examiner: Doan, Duyen My
Serial No.: 09/995,121 Group Art Unit: 2143
Filed: 11/27/2001 Docket No.: 14917.206US01/MS160280.1
Title: NON-INVASIVE LATENCY MONITORING IN A STORE-AND-FORWARD
REPLICATION SYSTEM

CERTIFICATE UNDER 37 CFR 1.10:

"Express Mail" mailing label number: EV 118156743 US

Date of Deposit: June 9, 2005

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Amendment, Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450.

By: 

Name: Jennifer Weck

TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Petitioner, Microsoft Corporation, a corporation organized and existing under the laws of the State of Washington and having its primary place of business at One Microsoft Way, Redmond, in the state of Washington, represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 09/995,121, filed on November 27, 2001, and entitled NON-INVASIVE LATENCY MONITORING IN A STORE-AND-FORWARD REPLICATION SYSTEM, by virtue of our assignment recorded at Reel 012334, Frame(s) 0900. Attached herewith is a Certificate under 37 C.F.R. § 3.73(b) establishing Microsoft's right as assignee to take action.

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Petitioner, Microsoft Corporation, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,643,670, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,643,670, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent No. 6,643,670, in the event that United States Patent No. 6,643,670 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

For submissions on behalf of an organization (e.g. corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: _____

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PATENT TRADEMARK OFFICE

T. B. Scull

Timothy B. Scull

Attorney/Agent for Microsoft Corporation